

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
:  
DAVID CASTILLO,

Petitioner,

-v.-

SUPERINTENDENT ROBERT ERCOLE,

Respondent.  
-----X

**ORDER**

07 Civ. 11256 (LAP)(GWG)

**GABRIEL W. GORENSTEIN**, United States Magistrate Judge.

David Castillo has petitioned this Court for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. In accordance with Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts, I have considered the petition preliminarily and direct that respondent shall file either an answer or, if respondent has a basis on which to seek to have the petition denied or dismissed that does not require an answer, a motion with respect to the petition:

- (1) respondent shall file such answer or motion on or before August 4, 2008;
- (2) the answer or motion shall include an affidavit describing any facts relevant to the answer or motion and all documents necessary for the adjudication of this matter, including but not limited to transcripts of any relevant proceedings, the briefs submitted on appeal, the record in any state post-conviction proceedings, and such other information as may be necessary for this Court to adjudicate the petition;
- (3) the submission shall include a memorandum of law fully describing the factual and legal basis underlying the respondent's opposition and each statement of fact therein shall be accompanied by a citation to the appropriate transcript, affidavit or document by paragraph or page number;

(4) petitioner shall have thirty (30) days from the date on which he is served with respondent's answer or motion to file a response or traverse;


(5) an extra copy of all papers served and filed shall be sent to the undersigned at 500 Pearl Street, New York, NY 10007;

(6) if petitioner is pro se, respondent must send to petitioner a copy of each unpublished decision that is cited in his memorandum of law.

The Clerk of the Court is directed to serve a copy of this Order and any other orders previously issued by the Court, the underlying petition, and any documents filed by the petitioner in support of the underlying petition (or in response to any order previously issued by the Court) on Habeas Corpus Section, Office of the District Attorney, Bronx County, 198 East 161st Street, Bronx NY 10451. Such service shall be made by Certified Mail, Return Receipt Requested.

SO ORDERED.

Dated: New York, New York  
June 10, 2008

  
\_\_\_\_\_  
GABRIEL W. GORENSTEIN  
United States Magistrate Judge

Copy to:

David Castillo  
96-A-8121  
Green Haven Correctional Facility  
P.O. Box 4000  
Stormville, NY 12582